

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7037

BILL NUMBER: HB 1356

DATE PREPARED: Dec 19, 2000

BILL AMENDED:

SUBJECT: Sweepstakes Regulation.

FISCAL ANALYST: Sherry Fontaine

PHONE NUMBER: 232-9867

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill adds sweepstakes, contests, and prize giveaways to the definition of "promotion" for purposes of the law regulating promotional gifts and contests. The bill requires disclaimers of actual winning odds for promotions that make certain representations to the person receiving the promotion. The bill provides for disclaimer statements for promotions that do not require a purchase. It provides for disclaimer statements for promotions for which a purchase does not increase the likelihood of winning. It also repeals a provision exempting certain types of promotions from certain notice requirements.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This bill makes certain provisions regarding promotions and disclaimer statements. The bill establishes sweepstakes, contests, and prize giveaways as promotions and also requires the following:

- (1) Disclaimers of actual winning odds for promotions that make certain representations;
- (2) disclaimer statements for promotions that do not require a purchase; and
- (3) disclaimer statements for promotions for which a purchase does not increase the likelihood of winning.

Current law provides that a person who knowingly or intentionally violates the laws regarding promotions commits a Class D felony. A sponsor or promoter in violation of these provisions would also be liable to an aggrieved person for either twice the actual damages sustained or \$500, whichever is greater. In addition, this person may be subject to action by the Attorney General and further penalties under the Deceptive Consumer Sales statute.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house

an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.